

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058
INDIANAPOLIS, IN 46204
PHONE (317) 232-3761
FAX (317) 232-8779

TO: ALL TOWNSHIP TRUSTEES

FROM: DEPARTMENT OF LOCAL GOVERNMENT FINANCE

**SUBJECT: PROVISIONS FOR EMERGENCY BORROWING (IC 36-6-6-14)
INCLUDING POOR RELIEF (IC 12-20-24) & BORROWING FOR
FIREFIGHTING APPARATUS, EQUIPMENT AND HOUSING OF
SAME (IC 36-8-13-6)**

DATE: March 2002

For any townships needing to borrow money for emergencies under IC 36-6-6-14 and/or for fire apparatus, equipment or housing of equipment under IC 36-8-13-6, the following steps should be used for both of these types of borrowing. Since indebtedness of the township must be approved by the Department of Local Government Finance under IC 6-1.1-18.5-8(b), that process is also referenced.

STEP 1: NOTICE OF PUBLIC HEARING IS PUBLISHED

Prior to the special meetings mentioned in Step 2, a NOTICE OF PUBLIC HEARING (recommended form attached) should be published one (1) time, at least ten (10) days before the date of the hearing or meeting pursuant to IC 5-3-1-2(b). The notice should be published in two newspapers published in the township. If no newspapers are published in the township, then two newspapers published in the county may be used. If only one newspaper is published in the county, then publication in one newspaper is sufficient. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

STEP 2: PUBLIC HEARING CONCERNING BORROWING IS HELD

For either type of borrowing, a special meeting is held to determine whether or not to borrow money for the emergency IC 36-6-6-14 or fire equipment and/or housing of fire equipment IC 36-8-13-6.

IC 36-6-6-14 states: " (a) a special meeting may be held by the legislative body (township board) if the executive (trustee), the chairman of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place and purpose of the meeting."

STEP 3: RESOLUTION TO BORROW IS ADOPTED/ PETITION FOR APPROVAL OF THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE IS ADOPTED

At the public hearing, the executive (trustee) and legislative body (township board) determines whether or not to borrow the necessary money from a financial institution in Indiana. The maximum amount of the loan is designated.

EMERGENCY LOANS:

IC 36-6-6-14 specifically states: "(b) At the special meeting, if two (2) or more members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of monies not included in the township's budget estimates and levy. Subject to section 14.5 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency.

FIRE LOANS/INSTALLMENT CONTRACTS:

IC 36-8-13-6 states: "(a) . . . the executive (trustee) and legislative body (township board), on behalf of the township, may also borrow the necessary money from a financial institution in Indiana to make the purchase on the same terms. They shall, on behalf of the township, execute and deliver to the institution the negotiable note or bond of the township for the sum borrowed. The note or bond must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years."

TOWNSHIP LOANS

IC 36-8-13-5 allows township borrowing for fire fighting apparatus and equipment, including housing for a period of up to fifteen years if certain requirements are met.

IC 36-8-13-5 reads, "After a sufficient appropriation has been made and approved and is available for the purchase of firefighting apparatus and equipment, including housing, the township executive, with the approval of the township legislative body, may purchase it for the township on an installment conditional sale or mortgage contract running for a period not exceeding:

- (1) six (6) years; or
- (2) fifteen (15) years for a township that:
 - (A) has a total assessed value of twenty million dollars (\$20,000,000) or less, as determined by the Department of Local Government Finance; and
 - (B) is purchasing the firefighting equipment with funding from the:
 - (i) state or its instrumentalities; or
 - (ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 of each year."

FIRE TERRITORY BORROWING

IC 36-8-19-8.7 allows similar borrowing requirements to fire territories.

The code reads, “After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the participating units, with the approval of the fiscal body of each participating unit, may purchase the firefighting apparatus and equipment for the territory on an installment conditional sale or mortgage contract running for a period not exceeding:

- (1) six (6) years; or
- (2) fifteen (15) years for a township that:
 - (A) has a total assessed value of twenty million dollars (\$20,000,000), or less, as determined by the Department of Local Government Finance; and
 - (B) is purchasing the firefighting equipment with funding from the:
 - (i) state or its instrumentalities; or
 - (ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 of each year.”

STEP 4: NOTICE OF DETERMINATION TO INCUR INDEBTEDNESS IS PUBLISHED

Within thirty (30) days after a determination is made to incur indebtedness under IC 36-6-6-14 or IC 36-8-13-6, a notice (recommended format attached) is published according to IC 5-3-1-2(h), one (1) time in two newspapers that are published in the township. If no newspapers are published in the township, then two newspapers published in the county may be used. If only one newspaper is published in the county, then publication in one newspaper is sufficient. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

NOTICE OF DETERMINATION (recommended format attached) should state the amount and purpose of the loan. It should also state that ten (10) taxpayers disagreeing with the determination may file a petition in the County Auditor's office. If no objecting petition is filed, an AUDITOR’S CERTIFICATE OF NO OBJECTION (recommended form attached) must be obtained from the County Auditor. **Note: It is the responsibility of the township to obtain the certificate of no objection from the County Auditor.** If no objecting petition is filed, skip to STEP 8.

STEP 5: TAXPAYERS MAY FILE AN OBJECTING PETITION

Not more than 30 days after the NOTICE OF DETERMINATION is published, ten (10) or more taxpayers who disagree with the determination to obtain a loan may file a petition with the County Auditor. The petition must state the taxpayer's objections and the reasons why the taxpayers believe the borrowing or special order to be unnecessary or unwise.

STEP 6: COUNTY AUDITOR CERTIFIES OBJECTING PETITION TO THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE

The County Auditor shall immediately certify a copy of the objecting petition indicating which signatures are taxpayers of the taxing districts affected by the borrowing. The certification together with other data necessary to present the questions involved is sent to the Department of Local Government Finance.

STEP 7: THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE HOLDS OBJECTION HEARING IN THE COUNTY WHERE THE TOWNSHIP IS LOCATED

Upon receipt of the certified objecting petition and other data, the Department of Local Government Finance shall fix a time and place for a hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after receipt of the certified documents.

The hearing shall be held in the county where the petition arose. The Department of Local Government Finance shall by mail give Notice of Hearing to the township and the first ten (10) taxpayer petitioners listed on the petition. This letter shall be sent to the taxpayers usual place of residence at least five (5) days before the hearing.

STEP 8: QUOTES SOLICITED FROM BANKS ON INTEREST RATES

(This step may occur any time after STEP 2 but before STEP 9.)

Banks are contacted for quotes on interest rates, terms and amortization schedules. It is not required that the township use the bank(s) where other funds are deposited. In addition, banks outside the township or county may be used for these types of loans.

Interest rates above 8% require special approval from the Department of Local Government Finance (IC 6-1.1-20-7). Emergency loans (IC 36-6-6-14) are to be repaid in one year. Exceptions to one-year repayment are granted only under extreme circumstances. Fire loans by statute may not extend beyond six (6) years.

STEP 9: TOWNSHIP PETITION FOR APPROVAL OF INDEBTEDNESS IS SENT TO DEPARTMENT OF LOCAL GOVERNMENT FINANCE

IC 6-1.1-18.5-8(b) requires that before a civil taxing unit may incur indebtedness, the unit must obtain approval from the Department of Local Government Finance. This approval insures that an exempt levy (debt service outside the maximum levy limitations) may be collected for loan payments. Even if the Cumulative Fire Fund (also outside the levy limitations when established by a township) is used for payments, IC 6-1.1-18.5-8(b) must be followed. The Cumulative Fire Fund is not an entitlement once established. It is annually subject to taxpayer objection rights and the annual budget process. Once the Department of Local Government Finance approves a loan, the Department of Local Government Finance must insure that tax levies are included in the township budget for loan payments. This protects the entity making the loan and protects the taxpayers' investment in items purchased.

In order to obtain Department of Local Government Finance approval, the township must forward a petition and complete transcript of proceedings to:

DEPARTMENT OF LOCAL GOVERNMENT FINANCE
ADMINISTRATIVE OFFICER
LOCAL GOVERNMENT TAX CONTROL BOARD
100 N. SENATE AVE., N1058
INDIANAPOLIS IN 46204

The transcript must include:

- 1) Proofs of publication from the notices in Steps 1 and 4
- 2) Resolution of determination to incur indebtedness
- 3) County Auditor's Certificate of No Remonstrance
- 4) Proposed debt amortization schedule
- 5) Petition to the DLGF for approval of indebtedness and request to be placed on the Local Government Tax Control Board (LGTCB) agenda
- 6) Complete hearing information sheet (See step 10)

STEP 10: DEPARTMENT OF LOCAL GOVERNMENT FINANCE FORWARDS PETITION FOR APPROVAL OF INDEBTEDNESS TO THE LGTCB. LGTCB HEARING INFORMATION SHEET IS RECEIVED BY THE TOWNSHIP, COMPLETED & RETURNED

The Township's petition to the Department of Local Government Finance (DLGF) for debt approval may be referred to the Local Government Tax Control Board (LGTCB) for recommendation (IC 6-1.1-18.5-8(b)). The Administrative Officer of the Control Board will schedule the request for the next LGTCB meeting. These meetings are held on the 4th Thursday of each month. To be on a particular month's agenda, the petition must be received no later than one month in advance of the Control Board meeting. A hearing information sheet concerning the amount of loan requested, the need for the loan and tax rate impact will be sent to the Trustee. The information sheet and other relevant data must be completed and returned to the Administrative Officer no later than two weeks prior to the LGTCB meeting.

STEP 11: TOWNSHIP ADVERTISES FOR AND OPENS BIDS FOR PROJECTS WHERE THE PURCHASE PRICE OR TOTAL PAYMENTS OF AN INSTALLMENT CONTRACT EXCEED \$25,000

(This step may occur anytime after STEP 2 and before STEP 12).

If there are questions concerning the bid process, please contact the State Board of Accounts at 317-232-2520. IC 36-1-9.5 and IC 5-22-8 outlines bid requirements.

Notice of the request for bids is given according to IC 5-3-1 which requires two (2) insertions at least one week apart, with the second publication made at least ten (10) days before the date the bids will be received in two newspapers that are published in the township. If no newspapers are published in the township, then two newspapers published in the county may be used. If only

one newspaper is published in the county, then publication in one newspaper is sufficient. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

STEP 12: LOCAL GOVERNMENT TAX CONTROL BOARD HEARING

A confirmation notice of the hearing day and time will be sent to the trustee.

The Control Board will make a recommendation to the Department of Local Government Finance to approve, disapprove, or modify the request. The Control Board is a recommending body only. The Department of Local Government Finance will make the final determination.

STEP 13: DEPARTMENT OF LOCAL GOVERNMENT FINANCE ISSUES LOAN ORDER

An order approving, disapproving, or modifying the indebtedness request will be issued. The Department of Local Government Finance must issue an order within three (3) months of the filing of the original request for approval. Unless special permission has been requested and granted to exceed 8%, the order will be subject to an interest rate not exceeding 8%. Emergency loans must be repaid in one (1) year, and fire loans/installment contracts paid in no more than six (6) years.

STEP 14: PROCEEDS OF LOAN ARE APPROPRIATED

When the township receives approval of the loan, it must appropriate the proceeds of the loan and other funds on hand for the purposes for which the loan was obtained. The trustee must follow the procedure set out in IC 6-1.1-18-5 for additional appropriations.

STEP 15: TOWNSHIP AWARDS BIDS IF PROJECT IS SUBJECT TO IC 36-1-9.5 AND IC 5-22-8

After receipt of the debt approval order and additional appropriation order approved from the Department of Local Government Finance, the township board may award bids for the purchase (if the loan is for a purchase requiring bidding) to the lowest responsible and responsive bidder.

STEP 16: TOWNSHIP BORROWS MONEY FROM FINANCIAL INSTITUTION

Based on interest rate quotes solicited from banks in STEP 9, the loan or installment contract is executed.

STEP 17: TOWNSHIP LEVIES DEBT SERVICE FUND WITH NEXT ANNUAL BUDGET TO PAY INTEREST AND PRINCIPAL ON LOAN

If a township wants to begin repayment in an ensuing year, the township must comply with the provisions of IC 6-1.1-17-3. In addition, on or before December 31, of the year in which the loan is approved, the unit must borrow the funds and file with the Department of Local

Government Finance a final amortization schedule. This means that the township must include a debt service fund to pay principal and interest on the loan or installment contract payments in the ensuing budget year as part of the advertised Budget Form 3- Notice to Taxpayers. Failure to do so may result in denial of a debt service levy in the ensuing year.

Summary of Borrowing Procedures

- 1) Notice of public hearing is published.
- 2) Public hearing concerning borrowing is held.
- 3) Resolution to borrow is adopted.
- 4) Notice of determination to incur indebtedness is published.
- 5) Taxpayers may file an objecting petition.
- 6) County Auditor certifies objection petition to the DLGF.
- 7) The DLGF holds objection hearing.
- 8) Quotes solicited from banks on interest rates.
- 9) Township petition for approval of indebtedness is sent to the DLGF.
- 10) DLGF forwards petition for approval of indebtedness to the LGTCB.
- 11) Township advertises for and opens bids for projects where the purchase price or total payments of an installment contract exceed \$25,000.
- 12) Local Government Tax Control Board hearing.
- 13) DLGF issues loan order.
- 14) Proceeds of loan are appropriated.
- 15) Township awards bids if project is subject to IC 36-1-9.5 and IC 5-22-8.
- 16) Township borrows money from financial institution.
- 17) Township advertises and adopts debt service fund appropriations, tax rate, and levy with next annual budget and must comply with the provisions of IC 6-1.1-17-3.

Township Poor Relief Borrowing Procedures

(IC 12-20-24)

- 1) If a township trustee determines that the poor relief account will be exhausted before the end of a fiscal year, the township trustee shall notify the township board of that determination.
- 2) After receiving notice, the township board shall appeal for the right to borrow money on a short-term basis to fund poor relief services in the township. In the appeal the township board must do the following:
 - i) Show that the amount of money contained in the township poor relief account will not be sufficient to fund services required to be provided within the township.
 - ii) Show the amount of money that the board estimates will be needed to fund the deficit.
 - iii) Indicate a period, not to exceed five (5) years, during which the township would repay the loan.
- 3) The appeal by the township board shall immediately be transmitted to the county commissioners. Upon receipt of the appeal, the county commissioners shall as soon as possible determine whether or not to loan the requested amount to the township board.
 - i) If the county commissioners determine to make a loan, the money shall be transferred from a county fund designated by the commissioners to the township's poor relief account.
 - ii) If the county commissioners determine not to make the loan, the commissioners shall submit the request to the county auditor. The county auditor shall call for a special meeting of the county council to consider the township's loan request. At the meeting, the county council shall determine whether or not to allow the township board to borrow money.
 - (a) If the county council determines to allow the loan, the county auditor shall borrow the money from a financial institution on behalf of the township board.
 - (b) If the county council determines that the township board should not be allowed to borrow money, the county council shall inform the township board of the council's decision.
- 4) If the county council determines that township board not be allowed to borrow money, the township board may appeal to the Department of Local Government Finance (See Step 9 of borrowing procedures) for the right to borrow money to pay for the township's poor relief obligations.
 - (a) If upon appeal the DLGF determines that a township board should be allowed

to borrow money, the DLGF shall order the township trustee to borrow money from a financial institution on behalf of the township board and to deposit the money borrowed in the township's poor relief account.

- (b) If upon appeal the DLGF determines that the township board should not be allowed to borrow money, the board may not do so for that year.

5) If a township board:

- (a) appeals before August 1 for permission to borrow money;
- (b) receives permission from the county commissioners, county council, or DLGF to borrow money before November 1 of that year; and
- (c) borrows money pursuant to IC 12-20-24;

the township board shall levy a property tax beginning in the next succeeding year and continuing for the term of the loan.

6) If a township board:

- (a) appeals after August 1 for permission to borrow money;
- (b) receives permission from the county commissioners, county council, or DLGF to borrow money before November 1 of that year; and
- (c) borrows money in the year of the appeal pursuant to IC 12-20-24;

the township board shall levy a property tax beginning in the second succeeding year and continuing for the term of the loan.

Note: A township board must make an additional appropriation before money borrowed may be spent.

(STEP 1)

**NOTICE OF PUBLIC HEARING
TO TAXPAYERS OF _____TOWNSHIP**

The taxpayers of _____ township are notified that on _____,

20__, at _____ o'clock, the township trustee and township board will meet at

_____ to discuss incurring indebtedness for:
(place)

\$_____ for an emergency loan pursuant to IC 36-6-6-14

\$_____ for the purchase of fire equipment/housing pursuant to IC 36-8-13-6.

Taxpayers shall have the right to be heard. A determination whether or not to borrow and the maximum amount of loan may be made at this hearing. If a determination is made, a Notice will be published pursuant to statute. Affected taxpayers shall have the right to file objecting petitions with the County Auditor within 30 days of the Notice of Determination.

Township Board

Township Trustee:

(STEP 4)

**NOTICE OF DETERMINATION TO INCUR INDEBTEDNESS
TO THE TAXPAYERS OF _____TOWNSHIP**

Notice is given to taxpayers of _____township that on _____,
20__ the trustee and township board of _____township
determined to incur a loan in the amount of \$_____ for the purpose of:

(Specifically state the purpose of the loan.)

Said loan is to be repaid in 1 to 6 years (specify correct number of years). Repayment will begin with taxes 20__ payable 20__. Ten (10) or more taxpayers objecting to this loan may file petitions within 30 days of this notice with the _____County Auditor stating their objections to the loan and the reasons why the loan is unnecessary or unwise. If an objecting petition is filed; the County Auditor shall certify the petition to the Department of Local Government Finance who shall hold a hearing on the matter in the county not less than five (5) or more than thirty (30) days after receipt of the certified petition from the County Auditor. Notice of hearing shall be provided by mail to the township and the first ten (10) taxpayers listed on the petition. Taxpayers present shall have the right to be heard. Determination of the Department of Local Government Finance is final.

_____Township Trustee

(Step 3)

RESOLUTION/SPECIAL ORDER DETERMINING TO INCUR INDEBTEDNESS

Minutes of the Township Board of _____,
Township, _____ County, held this _____
day of 20____.

The Township Board of _____ Township,
_____ County, Indiana, met with _____ Trustee, at _____
(location)

o'clock _____, pursuant to Notice of Hearing on incurring indebtedness with _____
members present. The meeting was called to order by said Trustee who read the Notice
to Taxpayers which stated the purpose of the meeting, the Township Board found that a
need exists to incur a loan in the amount of \$_____, and proper notice having
been given by publication the following resolution was presented:

BE IT RESOLVED by the Township Board of _____
Township, _____ County, Indiana that a need now exists for
incurring a loan in the amount of \$_____.

BE IT FURTHER RESOLVED that this Board will adhere to the provisions of IC
36-8-13-6 / IC 36-6-6-14. Loan repayment may be levied outside the present maximum
levy limitations for a period from 1 to 6 years (specify term). Repayment will be levied
beginning with taxes 20 ____ payable 20____. Said loan is subject to the approval of the
Department of Local Government Finance.

Duly adopted by the following vote of the members of said Township Board.

NAYS

AYES

_____ President

_____ Secretary

_____ Member

Attest:

Trustee
Township

(Step 4)

_____ County

CERTIFICATE OF NO OBJECTION

I, _____ Auditor of
_____ County, Indiana, do hereby certify
that there were no objections filed on the proposed Emergency Loan
IC 36-6-6-14/ Fire Loan IC 35-8-13-6 as adopted by the
_____ Township Board
on _____. Notice of Determination to
incur indebtedness was published on _____, 20____ in the
_____ newspaper and on _____, 20____
_____ newspaper.

Dated this _____ day of _____, 20____

_____ County Auditor

PETITION TO THE LOCAL GOVERNMENT TAX CONTROL BOARD
TO INCUR INDEBTEDNESS

Whereas, it has been determined by the Township Trustee and Township Board of _____
Township, _____ County, Indiana, that a need exists for a: (check one)
_____ Fire Loan IC 35-8-13-6 in the amount of \$ _____

_____ Emergency Borrowing IC 36-6-6-14 for: (check one)
_____ Fire in the amount of \$ _____
_____ Township in the amount of \$ _____
_____ Poor Relief in the amount of \$ _____

The loan/emergency borrowing is needed for the following purposes:

We respectfully request to be put on the agenda of the Local Government Tax Control Board for their meeting
scheduled on _____, 2002, to seek approval to incur debt for _____
Township, located in _____ County, Indiana.

Dated this _____ day of _____, 2002.

_____, President

_____, Secretary

_____, Member

Attest: _____

The Department of Local Government Finance shall mail all correspondence to the following address:

(Name) _____

(Address) _____

(City/State/Zip) _____

Phone # of contact person: _____